

**BEFORE THE ARKANSAS SECURITIES COMMISSIONER**

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ARKANSAS SECURITIES DEPT.

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**IN THE MATTER OF:  
MACKROW ASSET MANAGEMENT GROUP AND  
JOHN N. CUCINELLA**

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**CASE NO. S-18-0077**

**REQUEST FOR CEASE AND DESIST ORDER**

The Staff of the Arkansas Securities Department (“Staff”) received information and has in its possession certain evidence that indicates Mackrow Asset Management Group (“Mackrow”) and John N. Cucinella (“Cucinella”) have violated provisions of the Arkansas Securities Act (“Act”), Ark. Code Ann. § 23-42-101 through § 23-42-509.

**Administrative Authority**

1. This matter is brought in connection with violations of sections of the Act and is therefore properly before the Arkansas Securities Commissioner (“Commissioner”) in accordance with Ark. Code Ann. § 23-42-209.

**Respondents**

2. Mackrow is located at 83 Bay 28<sup>th</sup> Street, 2<sup>nd</sup> Floor, Brooklyn, New York. Mackrow holds itself out to the public as a broker-dealer. Mackrow is not registered with the Arkansas Securities Department (“Department”) or any other state or federal securities administrator in any capacity.

3. Cucinella is a resident of Brooklyn, New York. Cucinella is listed as an investment manager for Mackrow. Cucinella has not been registered with the Department in any capacity since 1997. In addition, Cucinella has not been registered with any state or federal securities administrator in any capacity since April 20, 2015.

### **Facts Supporting Cease and Desist Order**

4. On or about May 15, 2015, Cucinella sent a letter on behalf of Mackrow to an Arkansas resident ("AR1"). A copy of this letter is attached as "Exhibit 1". In this letter it is clear that Mackrow and Cucinella are offering services as a broker-dealer and agent of a broker-dealer to AR1.

5. On May 17, 2015, AR1 signed a Mackrow new account form. A copy of this new account form is attached as "Exhibit 2". On this new account form AR1 provided standard suitability information concerning AR1's net worth, income, investment objectives and risk tolerance.

6. On or about May 18, 2015, AR1 sent a check in the amount of \$2,000 to Mackrow and Cucinella. A copy of this check is attached as "Exhibit 3".

7. On or about May 4, 2015, Mackrow and Cucinella sold AR1 60 shares of Nationwide Protection 5 Star Fund. A copy of the Mackrow Trade Confirmation form is attached as "Exhibit 4".

8. On or about December 10, 2015, Cucinella sent a letter on behalf of Mackrow to AR1. A copy of this letter is attached as "Exhibit 5". Again, in this letter it is clear that Mackrow and Cucinella are offering services as a broker-dealer and agent of a broker-dealer to AR1.

9. On or about December 10, 2015, AR1 sent a check in the amount of \$1,500 to Mackrow and Cucinella. A copy of this check is attached as "Exhibit 6".

10. AR1's monthly account statement dated January 1, 2016, which is attached as "Exhibit 7", indicates that Mackrow and Cucinella purchased 550 shares or units of Torpid Growth Rate Hike Fund for AR1. In addition, said statement reflects that Mackrow and/or Cucinella received service fees or commissions for this sale of securities.

11. Cucinella held himself out to the public as the president and CEO of Mackrow.
12. Mackrow and/or Cucinella did not register or obtain any exemption from registration from the Department or the United States Securities and Exchange Commission for any of the securities it or he offered and/or sold to AR1.
13. Mackrow and Cucinella did not file any paperwork necessary for any of the securities it or he offered and sold to AR1 to be recognized as covered securities under any federal securities statute or the Act.

#### **Applicable Law**

14. Ark. Code Ann. § 23-42-102(17)(A)(ii) defines stock as a security.
15. Ark. Code Ann. § 23-42-301(a) states that it is unlawful for a person to transact business in this state as a broker-dealer or an agent unless he or she is registered under this chapter.
16. Ark. Code Ann. § 23-42-501 states it is unlawful for any person to offer or sell any security in this state unless: (1) it is registered under this chapter; (2) the security or transaction is exempted under Ark. Code Ann. § 23-42-503 or Ark. Code Ann. § 23-42-504; or (3) it is a covered security.
17. Ark. Code Ann. § 23-42-209(a) states that whenever it appears to the Commissioner, upon sufficient grounds or evidence satisfactory to the Commissioner, that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of the Act or any rule or order under the Act, the Commissioner may summarily order the person to cease and desist from the act or practice.

#### **Conclusions of Law**

18. The shares of stock issued by Mackrow and offered and sold by Mackrow and Cucinella to AR1 were securities as defined by Ark. Code Ann. § 23-42-102(17)(A)(ii).

19. Mackrow and Cucinella violated Ark. Code Ann. § 23-42-301(a), as detailed in paragraphs 4 through 11.

20. Mackrow and Cucinella did not properly register, file for any exemption, or make any notice filing concerning any covered security with the Department regarding the securities offered and sold in and from Arkansas to AR1

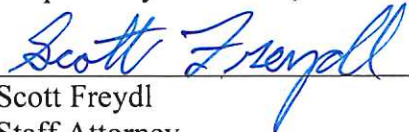
21. The offer and sale of unregistered and non-exempt securities by Mackrow and Cucinella to AR1 constitute multiple violations of Ark. Code Ann. § 23-42-501 by Mackrow and Cucinella.


22. The conduct, acts, and practices of Mackrow and Cucinella threaten immediate and irreparable public harm. A cease and desist order is in the public interest and is appropriate pursuant to Ark. Code Ann. § 23-42-209(a).

#### **Prayer for Relief**

**WHEREFORE**, the Staff respectfully requests that the Commissioner order Mackrow and Cucinella to immediately CEASE AND DESIST from offering and/or selling any securities to any Arkansas resident until it and he are properly registered with the Department; from offering and/or selling any securities to any Arkansas resident until the securities are properly registered or exempted from registration pursuant to the Act and Rules; and, for all other relief to which the Staff may be entitled.

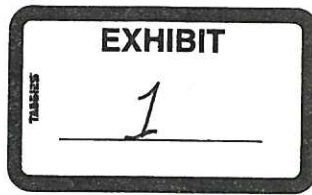
Respectfully submitted,

  
\_\_\_\_\_  
Scott Freydl  
Staff Attorney  
Arkansas Securities Department

  
\_\_\_\_\_  
Date

# MACKROW ASSET MANAGEMENT GROUP

May 15, 2015



I would like to take this opportunity to thank you for giving me your vote of confidence. We at Mackrow Asset Management Group are interested in establishing long-term relationships with our customers. Our primary focus being increasing capital gains while minimizing risk exposure for our clients. Utilizing our extensive market knowledge, state of the art analysis techniques, and up to the minute market data. We pride ourselves in being able to offer our clients a wide variety of opportunities. We are committed to providing personalized service, intelligent market insights, accurate execution, and long-term profitability. Our goal is to pass our extensive knowledge to you, allowing you to enhance your wealth. Credibility, Integrity and Dedication are the cornerstones that Mackrow Asset Management Group was founded on. We are dedicated to helping you build a more diversified portfolio and establishing a rewarding alliance with us.

*Enclosed you will find all your New Account Paperwork.*

*Please Sign in the Highlighted and Tagged Areas and Return these Documents with Your Check in the Enclosed Overnight Return Envelope.*

*To Contact Fedex For A PickUp Call 800-463-3339 And Tell them to Bill our Account.*

Please Make Your Check Payable To: ( MACKROW ASSET or MACKROW )

Total Investment ( \$ 2,000.00 )

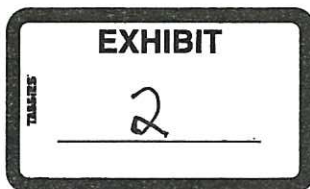
And Please Include Your Account Number (                      ) on Your Check.

DO TO VOLUME OF CHECKS WE RECEIVE DAILY PLEASE ONLY PRINT YOUR ACCOUNT NUMBER IN MEMO SECTION OF CHECK. THANK YOU.

Thank you again for your business,

A handwritten signature in black ink, appearing to read "John N. Cucinella".

John N. Cucinella  
Investment Manager



Mackrow Asset Management Group

Toll Free: 877-384-7136  
Direct Line: 347-312-2191  
www.mackrowasset.com

## CUSTOMER ACCOUNT DOCUMENTATION FOR INVESTMENT OPPORTUNITIES.

Full Name : \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State & Zip: \_\_\_\_\_ Telephone No. \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Email Address: \_\_\_\_\_  
Social Security No. \_\_\_\_\_ Corporate Tax I.D. \_\_\_\_\_

### CUSTOMER PROFILE:

Individual \_\_\_\_\_ Joint \_\_\_\_\_ Trust \_\_\_\_\_ Corp. \_\_\_\_\_ IRA \_\_\_\_\_ Simple \_\_\_\_\_ Roth \_\_\_\_\_ Sep \_\_\_\_\_ Other \_\_\_\_\_  
Single \_\_\_\_\_ Married ☒ Widow \_\_\_\_\_ Divorced \_\_\_\_\_

1. Type Of Business & Occupation: \_\_\_\_\_ 2. Annual Income: \$ \_\_\_\_\_  
3. Estimated Net Worth: \$ \_\_\_\_\_ 4. Investable / Liquid assets: \$ \_\_\_\_\_  
5. Amount invested in Stocks, Commodities / Precious Metals : \$ \_\_\_\_\_  
6. Investment Objectives: Speculation / Trading Profits 7. Investment Purpose: Market Speculation  
8. Risk Tolerance: Aggressive 9: Investment Time Horizon: Very Short Term / Intermediate

I hereby acknowledge that the foregoing answers are true and correct to the best of my knowledge and that I have not been instructed by anyone to misrepresent any facts herein. Mackrow Asset Management Group may rely on the above information in determining my financial suitability as a purchaser. I agree to notify you if any of the information should change which could alter my / our investments or financial situation.

Customer Signature \_\_\_\_\_ Date 5-17-15  
Individual Account Holder

Customer Signature \_\_\_\_\_ Date \_\_\_\_\_  
Joint Account Holder

## DISCLOSURE STATEMENT

### A ) Disclosure Statement

When we accept your account application, we are agreeing to serve you as your broker and to maintain an account for you. We agree, subject to our acceptance of an authorized order, to buy, sell, or otherwise dispose of the investment And or investment products according to your instructions. The ownership of physical precious metals and or any of our investment products whether grams, ounces or any other denomination for investment purposes can be made through various vehicles. The following represents some, but not all, areas of risk and costs that are inherent with the various methods of ownership which require consideration and evaluation by prospective investors.

I understand that telephone calls may be recorded, and I hereby consent to such recording. I understand my positions are traded in grams and delivered in ounces if delivery is requested. Reports of executions of orders and statements of my account shall be conclusive if not objected to in writing within 3 business days from email and 3 business days after transmitted to me by mail.

### B ) Market Fluctuations and Risk of Loss

As with any investment and or investment products the prices fluctuate daily and there are absolutely no guarantees that the purchase price will ever be exceeded in order to provide the opportunity of a higher selling price.

Upon entering the market, the risk of loss is the client's. Only those individuals who are capable of Sustaining a financial loss should consider purchasing precious metal investments and or any of our various investment products.

### C ) Stagnation and Opportunity Cost

Investment dollars put into these products can only be converted back into cash by selling.

Therefore, there is a cost which is the loss of interest which the investment dollars would earn if left in interest bearing instruments. In order to offset the loss of interest income, the price must move greater than the percentage of interest income forfeited.

### D ) Broker Fees

Brokerage firms are in business to make money by providing their clients with various methods of ownership and the services related to these specific markets. In order for a purchase to become profitable, the price must increase sufficiently enough to exceed the total cost of the product, including the brokers fees.

This is commonly referred to as the break-even price. The commission and service fee's that we charge is a percentage of the total position value. New account fee is a one time flat fee. Mackrow Asset Management Group nor it's representatives guarantee, assure or promise future market movement, prices, premiums, spreads or profits. All debits are accumulated daily to your account and are paid to the extent that sufficient funds are available. As an account owner, you are responsible for satisfying all debits on your account, including any debt still owed after all assets have been removed from an account, any interest that accrued on that debt, service fee's and extension charges. At any time may a position or part of a position be sold-out to cover a debit from service fees and or extension fee if no additional funds have been deposited to satisfy the debit.

### E ) Delivery Charges

Products can be either delivered directly to the client's designated point of delivery or to a recognized depository which provides insured non-segregated storage. Most home deliveries take place via drop shipment from recognized depositories via registered insured mail and are subject to handling fees, fabrication charges, postage and insurance. In order to determine these fees, consult with your broker. Your transactions involve delivery within at most 28 days of date of purchase and are traded in grams and delivered in ounces. Transfer notices sent upon request.

### F ) Financing

Most recognized depositories also provide financing services which allow clients to borrow up to 75% of the value of their precious metals products which are also in the non-segregated depository facilities of the lending institution. Interest rates and various fees will vary from one institution to another. Consult your broker about all costs and fees associated with financing investments. All clients wishing to make use of financing need to understand the following. 1) Should the value of the product decline, the lending institution reserves the right to demand either a principal loan reduction or the provision of additional acceptable collateral. 2) The lending institutions also reserve the right to liquidate all or part of the product acting as collateral for the loan without any prior notice to the client. 3) The ongoing cost of borrowing (interest charges and fees) will increase the break-even of the product purchased or being used to support collateral for the loan. Therefore, precious metals whether grams or ounces purchased with the use of financing must increase in price sufficiently enough to offset the cost of borrowing before an actual profit can be generated by selling the product. 4) Increased risk is created by the debt obligation of the borrower to the lending institution. There are no guarantees that clients will be able to resell their precious metals for an amount equal to or greater than the unpaid balance due to the lending institution and the borrower is responsible for any and all deficiencies. It is therefore possible to lose or gain more than the amount of the purchaser's initial investment when financing is used. Cash Advances and Commodity Loans may be made by lending institution at the oral or written request of Borrower. Only Borrower is authorized to request Cash Advances and Commodity Loans, and direct disposition thereof, until written notice of the revocation of such authority is received by lending institution. Any such Cash Advance or Commodity Loan shall be conclusively presumed to have been made to, or for the benefit of, Borrower when made in accordance with such requested directions and when said advance is paid or loan is made on behalf of Borrower. ( continued on page 2 )

Mackrow Asset Management Group

Disclosure Statement

( continued from page 1 )

Borrower hereby waives diligence, presentment, protest, demand and notice of every kind and (to the full extent permitted by law) the rights to plead any statute of limitations as defense to any demand hereunder or in connection with any security heretofore. Funds received by lending institution will be posted to the Borrower's account by close of business on the following business day from the day of receipt. Adverse market moves prior to posting such payment may result in forced liquidations. Customer's account is of a non-discretionary nature and Customer shall have full and complete control over such account at all times. Customer shall also have responsibility for monitoring all commodity positions established hereunder. Borrower acknowledges that he/she bears the entire risk of decline in the value of his or her commodities held by Bank and or lending institution. Borrowers shipping commodities to lending institution bear all risks of loss or non-delivery until the commodity is received and accepted by lending institution. A Borrower wishing to make delivery to lending institution, except by demand, must give at least 2 days advance notice and make delivery to a designated facility. Commodities must be in a form acceptable to lending institution. Lending institution may require inspection and assay at the expense of Borrower to determine acceptability of commodity. Lending institution may at any time change its shipping and handling fees.

**G ) Liquidity**

Account holders should note that on any given day commodity exchange trading in categories of precious metals whether grams or ounces may be restricted, suspended or halted entirely for any number of reasons. When such situations occur, it may be difficult or impossible to purchase or sell and to know when the exchange market will resume activity. Although the company makes every effort as a broker dealer to provide our clients with the ability to purchase and sell, we cannot guarantee access to markets for either purpose. Additionally, product purchased from or through the firm when sold to any third party, may be required by that party to subject the precious metals to inspection and assay at the owner's Expense. Substantially the firm's investment products can at times be deemed as illiquid depending on the market. When an extension or extension's is needed due to late payment and or outstanding balance for the purchase the fee varies based on amount and size of transaction and or a flat fee determined by Mackrow Asset Management Group.

When Funds are owed due to a transaction and or transactions for a purchase that took place in your account if the available equity in your account dips below \$1000.00 and or an amount that Mackrow Asset management group no longer wishes to uphold the risk of your outstanding balance. Your account may be sold out at discretion of Mackrow Asset Management Group.

**H ) Taxes**

As tax laws are constantly changing, we suggest you consult your tax advisor as to how current tax laws may affect the outcome of contemplated purchases or sales before entering into any agreement. Company brokers will be available to discuss the type of transaction under consideration with the tax advisors of our clients.

**I ) Arbitration With Governing Law and Venue**

The parties agree that any disputes relating to this Account will be submitted to binding arbitration. The venue for any such arbitration shall be exclusive in the State of New York and all parties agree that any arbitration award entered shall be binding and convertible to a New York State judgment subject to the laws of the state of New York and further subject to any modifications thereof permissible thereunder. The parties hereby accordingly waive their right to any other remedy or to proceed with any court actions and further hereby waive jurisdiction and venue. The Account and the activities contemplated hereunder shall be governed by the substantive and procedural laws of Kings County, the State of New York without respect to New York conflict of law, rules and venue of any dispute resolution shall likewise be in Kings County, the State of New York without respect to conflict of law rules.

**J ) ACKNOWLEDGEMENT**

I have carefully read and understand the foregoing Disclosure Statement ( A ) through ( J ) .

Print Name \_\_\_\_\_

Signature \_\_\_\_\_  
Individual Account Holder

Date 5-17-15

Print Name \_\_\_\_\_

Signature \_\_\_\_\_  
Joint Account Holder

Date \_\_\_\_\_

CERTIFICATE OF SOLE PROPRIETORSHIP

Please be advised that I, \_\_\_\_\_, am the Sole Signing Officer and  
Director for \_\_\_\_\_.

Therefore, all corporate documents will only be executed by myself, as there are no other authorized parties.

X \_\_\_\_\_  
(Sole Signing Officer and Director)

X \_\_\_\_\_  
(Company)

X 5-17-15  
(Date)

(Medallion Guarantee)

3547

81-14/829

5-18-15

Date

STUTT GART, AR 72160

\$ 200.<sup>00</sup>

Payable  
to Order of

Dollars

Pay to the  
Order of

Macknow Assets  
Rev. Howard A. Williams

**fm**

708 S. MAIN  
PO BOX 1010  
Merchants Bank STUTT GART, ARKANSAS 72160

MP

For

1:08 290714711

Merchant's Order

EXHIBIT

3

# TRADE CONFIRMATION



Customer Name :  
Account Number :  
Trade Number : 5000134  
Confirmation Date : 5/4/2016

## MACKROW ASSET MANAGEMENT GROUP TRADE CONFIRMATION

Trade Date :	5/4/2016	
Bought / Sold :	Sold	Mackrow Asset Management Group. Private Client Division
Description :	Nationwide Protection 5 Star Fund	
Quantity :	60	Investment Manager : John N. Cucinella
Price Per Unit/Gram : \$	8.23	
Trade Amount : \$	493.80	<a href="http://www.mackrowasset.com">www.mackrowasset.com</a>
Commision : \$	75.00	
Ticket Charge : \$	47.00	
Extension Charge : \$	-	
Service Fee : \$	0.32	
Profit / (Loss) \$	(498.60)	

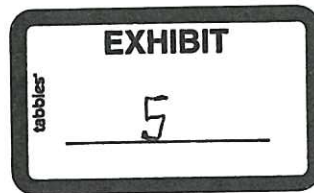
Mackrow Asset Management Group  
83 Bay 28th Street 2nd Floor Brooklyn NY 11214  
Toll Free : 877-384-7136

IF THE INFORMATION ABOVE IS NOT CORRECT YOU MUST IMMEDIATLY CALL MACKROW ASSET MANAGEMENT GROUP AT 877-384-7136. IF NO COMMENT IS RECEIVED WITHIN 3 DAYS, THE ABOVE ORDER WILL BE CONSIDERED CORRECT.

# TRADE CONFIRMATION

# MACKROW ASSET MANAGEMENT GROUP

December 10, 2015



I would like to take the opportunity to thank you for being a valued client at Mackrow Asset Management Group. We at Mackrow Asset Management Group are interested in establishing long-term relationships with our customers. Our primary focus being increasing capital gains while minimizing risk exposure for our clients. Utilizing our extensive market knowledge, state of the art analysis techniques, and up to the minute data. We pride ourselves in being able to offer our clients a wide variety of opportunities that should meet the objectives of you, your family, and your business. I am confident that we can match your short and long term goals. To our valued clients around the world, we are committed to providing personalized service, intelligent market insights, accurate execution, and long-term profitability. Our goal is to pass our extensive knowledge to you, our accredited investor, allowing you to enhance your wealth. Credibility, integrity and dedication are the cornerstones that Mackrow Asset Management Group is founded on. We are dedicated to helping you build a more diversified portfolio and establishing a rewarding alliance with us.

*Please make your Check Payable to: ( MACKROW ASSET or MACKROW )  
Total Investment ( \$1,500.00 )  
And Please include your Account Number ( ) on your Check.*

*Please Return These Documents And Or Your Check In The Enclosed Overnight Return Envelope.  
To Contact Fedex For A PickUp Call 800-463-3339 And Tell them To Bill Our Account.*

Your Torpid Growth Rate Hike Fund Confirmation To Follow.

Thanks again,

A handwritten signature in black ink, appearing to read "John N. Cucinella".

John N. Cucinella  
Investment Manager

MACKROW ASSET  
MANAGEMENT GROUP



**MACKROW ASSET  
MANAGEMENT GROUP**

**JOHN N. CUCINELLA**  
Investment Manager

2125 BENSON AVE., 2nd FL. 83 BAY 28th ST., 2nd FL.  
BROOKLYN, NY 11214 BROOKLYN, NY 11214  
Toll Free: 1-877-384-7136 • Direct Line: 1-347-312-2191

Website: [www.mackrowasset.com](http://www.mackrowasset.com)

MACKROW ASSET  
MANAGEMENT GROUP



**MACKROW ASSET  
MANAGEMENT GROUP**

**JOHN N. CUCINELLA**  
Investment Manager

2125 BENSON AVE., 2nd FL. 83 BAY 28th ST., 2nd FL.  
BROOKLYN, NY 11214 BROOKLYN, NY 11214  
Toll Free: 1-877-384-7136 • Direct Line: 1-347-312-2191

Website: [www.mackrowasset.com](http://www.mackrowasset.com)

4014

81 11/18/79

Dec 10 75

STUTTGART, AR 72160

Pay to the order of *MacKinnon Assets* \$1500.00  
*One Thousand Five Hundred & No/100*

TABLETS  
6

**fn**

708 S. MAIN  
PO BOX 1010  
STUTTGART, ARKANSAS 72160  
Merchants Bank

MP

082907477

# MONTHLY ACCOUNT STATEMENT

Customer Name :  
Account Number :  
Prior Statement Date :  
This Period Statement  
Date :

12/11/2015

1/1/2016

MACKROW ASSET



MANAGEMENT GROUP

EXHIBIT

7

## MACKROW ASSET MANAGEMENT GROUP ACCOUNT STATEMENT AT SPOT ON VALUE

**Total Position**

**Value :**

\$ 1,210.00

**Ending of Period**

**Value :**

\$ 1,171.93

Product : Torpid Growth Rate Hike Fund

Units / Grams :	550	Mackrow Asset Management Group.
New Account Fee :	\$ -	Private Client Division
Credits / ( Debits )	\$ (38.07)	Investment Manager : John N. Cucinella
Service Fee :	\$ 5.57	www.mackrowasset.com
Deposit :	\$ 1,500.00	
Withdrawal :	\$ -	
Extension Fee :	\$ -	

Mackrow Asset Management Group  
83 Bay 28th Street 2nd Floor Brooklyn NY 11214  
Toll Free : 877-384-7136  
www.mackrowasset.com

# MONTHLY ACCOUNT STATEMENT